

THE WARRANT
ANNUAL TOWN MEETING – JUNE 1 & 8, 2010
TOWN OF BAR HARBOR

STATE OF MAINE

County of Hancock, ss

To: Nathan Young Constable of the Town of Bar Harbor

Greeting:

In the name of the State of Maine you are hereby required to notify and warn the voters of the Town of Bar Harbor, in said County, qualified by law to vote in Town affairs to meet in the **Emerson School Gymnasium** in said Town on Tuesday the first day of June, A. D., 2010 at seven o'clock in the afternoon, then and there to act on *Articles A through Y*;

And to notify and warn said voters to meet in the **Municipal Building, Third Floor Auditorium** in said Town on Tuesday, the eighth day of June, A. D., 2010 at eight o'clock in the forenoon until eight o'clock in the afternoon, then and there to act on Articles numbered *one through sixteen* all of said articles being set out below to wit:

Reminder

~ Voter Check-in Required ~

“Open Town Meeting”, June 1st, all Voters must check-in at the table in the lobby outside the gym to obtain a voter card prior to entering the Town Meeting. Voters are encouraged to arrive at least 30 minutes before the start of the meeting.

LD#1, Property Tax Relief, requires voter hand count and written ballot on several Articles.

Open Town Meeting

Action on the following articles will be on the Town Meeting floor

Tuesday, June 1, 2010 starting at 7:00 p.m.

Emerson School Gymnasium

Article A ELECTION OF MODERATOR - To choose a Moderator to preside at said meeting.

Article B ELECTION OF WARRANT COMMITTEE MEMBERS - To elect Warrant Committee members as required by Section C-34 of the Town Charter.

Note: Articles C through M authorize expenditures in cost center categories.

Article C EDUCATION BUDGET EXPENDITURES: Regular Instruction - To see what sum the School Committee is authorized to expend for **Regular Instruction** for the fiscal year beginning July 1, 2010 and ending June 30, 2011.

	<i>School</i>	<i>Town</i>	<i>Warrant</i>
Recommendations:	<i>Committee</i>	<i>Council</i>	<i>Committee</i>
	\$2,405,104	\$2,405,104	\$2,405,104

The School Committee recommends adoption.

The seven member Town Council recommends adoption by a vote of 7 to 0.

The 22 member Warrant Committee recommends adoption by a vote of 17 to 0.

Article D EDUCATION BUDGET EXPENDITURES: Special Education - To see what sum the School Committee is authorized to expend for **Special Education** for the fiscal year beginning July 1, 2010 and ending June 30, 2011.

	<i>School</i>	<i>Town</i>	<i>Warrant</i>
Recommendations:	<i>Committee</i>	<i>Council</i>	<i>Committee</i>
	\$ 711,833	\$ 711,833	\$ 711,833

The School Committee recommends adoption.

The seven member Town Council recommends adoption by a vote of 7 to 0.

The 22 member Warrant Committee recommends adoption by a vote of 17 to 0.

Article E EDUCATION BUDGET EXPENDITURES: Career and Technical Education – To see what sum the School Committee is authorized to expend for **Career and Technical Education** for the fiscal year beginning July 1, 2010 and ending June 30, 2011.

	<i>School Committee</i>	<i>Town Council</i>	<i>Warrant Committee</i>
<i>Recommendations:</i>	<i>\$ 0</i>	<i>\$ 0</i>	<i>\$ 0</i>

The School Committee recommends adoption.

The seven member Town Council recommends adoption by a vote of 7 to 0.

The 22 member Warrant Committee recommends adoption by a vote of 17 to 0.

Article F - EDUCATION BUDGET EXPENDITURES: Other Instruction - To see what sum the School Committee is authorized to expend for **Other Instruction** for the fiscal year beginning July 1, 2010 and ending June 30, 2011.

	<i>School Committee</i>	<i>Town Council</i>	<i>Warrant Committee</i>
<i>Recommendations:</i>	<i>\$ 93,345</i>	<i>\$ 93,345</i>	<i>\$ 93,345</i>

The School Committee recommends adoption.

The seven member Town Council recommends adoption by a vote of 7 to 0.

The 22 member Warrant Committee recommends adoption by a vote of 17 to 0.

Article G EDUCATION BUDGET EXPENDITURES: Student & Staff Support - To see what sum the School Committee is authorized to expend for **Student & Staff Support** for the fiscal year beginning July 1, 2010 and ending June 30, 2011.

	<i>School Committee</i>	<i>Town Council</i>	<i>Warrant Committee</i>
<i>Recommendations:</i>	<i>\$ 431,859</i>	<i>\$ 431,859</i>	<i>\$ 431,859</i>

The School Committee recommends adoption.

The seven member Town Council recommends adoption by a vote of 7 to 0.

The 22 member Warrant Committee recommends adoption by a vote of 18 to 0.

Article H EDUCATION BUDGET EXPENDITURES: System Administration - To see what sum the School Committee is authorized to expend for **System Administration** for the fiscal year beginning July 1, 2010 and ending June 30, 2011.

	<i>School</i>	<i>Town</i>	<i>Warrant</i>
Recommendations:	<i>Committee</i>	<i>Council</i>	<i>Committee</i>
	\$ 109,371	\$ 109,371	\$ 109,371

The School Committee recommends adoption.

The seven member Town Council recommends adoption by a vote of 7 to 0.

The 22 member Warrant Committee recommends adoption by a vote of 18 to 0.

Article I EDUCATION BUDGET EXPENDITURES: School Administration -
To see what sum the School Committee is authorized to expend for **School Administration** for the fiscal year beginning July 1, 2010 and ending June 30, 2011.

	<i>School</i>	<i>Town</i>	<i>Warrant</i>
Recommendations:	<i>Committee</i>	<i>Council</i>	<i>Committee</i>
	\$ 297,662	\$ 297,662	\$ 297,662

The School Committee recommends adoption.

The seven member Town Council recommends adoption by a vote of 7 to 0.

The 22 member Warrant Committee recommends adoption by a vote of 18 to 0.

Article J EDUCATION BUDGET EXPENDITURES: Transportation & Buses
- To see what sum the School Committee is authorized to expend for **Transportation & Buses** for the fiscal year beginning July 1, 2010 and ending June 30, 2011.

	<i>School</i>	<i>Town</i>	<i>Warrant</i>
Recommendations:	<i>Committee</i>	<i>Council</i>	<i>Committee</i>
	\$ 222,555	\$ 222,555	\$ 222,555

The School Committee recommends adoption.

The seven member Town Council recommends adoption by a vote of 7 to 0.

The 22 member Warrant Committee recommends adoption by a vote of 18 to 0.

Article K EDUCATION BUDGET EXPENDITURES: Facilities Maintenance -
To see what sum the School Committee is authorized to expend for **Facilities Maintenance** for the fiscal year beginning July 1, 2010 and ending June 30, 2011.

	<i>School</i>	<i>Town</i>	<i>Warrant</i>
Recommendations:	<i>Committee</i>	<i>Council</i>	<i>Committee</i>
	\$ 501,854	\$ 501,854	\$ 501,854

The School Committee recommends adoption.

The seven member Town Council recommends adoption by a vote of 7 to 0.

The 22 member Warrant Committee recommends adoption by a vote of 18 to 0.

Article L EDUCATION BUDGET EXPENDITURES: Debt Service and Other

Commitments - To see what sum the School Committee is authorized to expend for **Debt Service and Other Commitments** for the fiscal year beginning July 1, 2010 and ending June 30, 2011.

	<i>School</i>	<i>Town</i>	<i>Warrant</i>
Recommendations:	<i>Committee</i>	<i>Council</i>	<i>Committee</i>
	\$ 0	\$ 0	\$ 0

The School Committee recommends adoption.

The seven member Town Council recommends adoption by a vote of 7 to 0.

The 22 member Warrant Committee recommends adoption by a vote of 18 to 0.

Article M EDUCATION BUDGET EXPENDITURES: All Other Expenditures -

To see what sum the School Committee is authorized to expend for **All Other Expenditures** for the fiscal year beginning July 1, 2010 and ending June 30, 2011.

	<i>School</i>	<i>Town</i>	<i>Warrant</i>
Recommendations:	<i>Committee</i>	<i>Council</i>	<i>Committee</i>
	\$ 60,000	\$ 60,000	\$ 60,000

The School Committee recommends adoption.

The seven member Town Council recommends adoption by a vote of 7 to 0.

The 22 member Warrant Committee recommends adoption by a vote of 18 to 0.

Note: Articles C – M authorize a total budget of \$4,833,583.

Note: Articles N & O raise funds for the Proposed School Budget

Article N EDUCATION BUDGET: Essential Programs and Services – To see what sum the voters of the Town of Bar Harbor will appropriate for the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act (Recommend \$3,808,548) and to see what sum the voters of the Town of Bar Harbor will raise as the Town's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act in accordance with the Maine Revised Statutes, Title 20-A, section 15688 for the period July 1, 2010 to June 30, 2011.

Explanation: The Town of Bar Harbor's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act is the amount of money determined by state law to be the minimum amount that a municipality must raise in order to receive the full amount of state dollars.

	<i>School</i>	<i>Town</i>	<i>Warrant</i>
Recommendations:	<i>Committee</i>	<i>Council</i>	<i>Committee</i>
	\$3,567,796	\$3,567,796	\$3,567,796

The School Committee recommends adoption.

The seven member Town Council recommends adoption by a vote of 7 to 0.

The 22 member Warrant Committee recommends adoption by a vote of 18 to 0.

Note: Article O raises additional local funds recommended to support the proposed school budget

Article O EDUCATION BUDGET: Tax Cap Override - To see what sum the voters of the Town of Bar Harbor will raise and appropriate in additional local funds for school purposes (Recommend: \$1,007,683) for the period July 1, 2010 to June 30, 2011, which exceeds the State's Essential Programs and Services allocation model by (Recommend: \$ 909,467) as required to fund the budget recommended by the school committee.

Written Ballot Vote Required

Explanation:

The additional local funds are those locally raised funds over and above the Town of Bar Harbor's local contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act and local amounts raised for the annual payment on non-state funded debt service that will help achieve the Town of Bar Harbor's budget for educational programs.

The School Committee recommends \$ 1,007,683 for additional local funds and gives the following reasons for exceeding the State's Essential Programs and Services funding model by \$909,467. The State funding model underestimates the actual costs to fully fund the 2010-2011 budget.

	<i>School</i>	<i>Town</i>	<i>Warrant</i>
<i>Recommendations:</i>	<i>Committee</i>	<i>Council</i>	<i>Committee</i>
	\$1,007,683	\$1,007,683	\$1,007,683

The School Committee recommends adoption.

The seven member Town Council recommends adoption by a vote of 7 to 0.

The 22 member Warrant Committee recommends adoption by a vote of 18 to 0.

Note: Articles N & O raise a total town appropriation of \$4,575,479

Note: Article P summarizes the proposed school budget and does not authorize any additional expenditures

Article P

EDUCATION BUDGET: Total Expenditures- To see what sum the voters of the Town of Bar Harbor will authorize the School Committee to expend for the fiscal year beginning July 1, 2010 and ending June 30, 2011 from the Town's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act, non-state-funded school construction projects, additional local funds for school purposes under the Maine Revised Statutes, Title 20-A, section 15690, unexpended balances, tuition receipts, state subsidy and other receipts for the support of schools.

	<i>School</i>	<i>Town</i>	<i>Warrant</i>
<i>Recommendations:</i>	<i>Committee</i>	<i>Council</i>	<i>Committee</i>
	\$4,833,583	\$4,833,583	\$4,833,583

The School Committee recommends adoption.

The seven member Town Council recommends adoption by a vote of 7 to 0.

The 22 member Warrant Committee recommends adoption by a vote of 18 to 0.

Article Q EDUCATION BUDGET: State, Federal, and Other Funds - In addition to the amount in Articles C – P,, shall the School Committee be authorized to expend such other sums as may be received from state or federal grants or programs or other sources during the fiscal year 2010-2011 for school purposes provided that such grants, programs or other sources do not require the expenditure of other funds not previously appropriated?.
Current Year Totals: \$242,836

Recommendations:

The School Committee recommends adoption.

The seven member Town Council recommends adoption by a vote of 7 to 0.

The 22 member Warrant Committee recommends adoption by a vote of 18 to 0.

Article R MUNICIPAL BUDGET: Expenditures - To see what sum the Town will raise and appropriate for the Municipal Budget for FY11 (7/1/10 to 6/30/11).

Explanation:

This is the total amount that the Town Council is allowed to spend from all sources except grants, donations and reserve accounts as provided in Article U.

<i>Recommendations:</i>	<i>Town Council</i>	<i>Warrant Committee</i>
<i>Total Expenditures</i>	<i>\$9,452,306</i>	<i>\$9,452,306</i>

The seven member Town Council recommends approval, by a vote of 7 to 0.

The 22 member Warrant Committee recommends approval.

Article S MUNICIPAL BUDGET: Other Revenues - To see what sum the Town will vote to reduce the amount to be raised by taxation by using estimated revenues and fund balance for the Municipal Budget for FY11 (7/1/10 to 6/30/11).

Explanation:

In addition to property taxes, the Town receives other revenues from fees, licenses, excise taxes, etc., and we sometimes use monies left over from prior years (fund balance). The funds shown in this article reduce the amount of property taxes that have to be raised.

<i>Recommendations:</i>	<i>Town Council</i>	<i>Warrant Committee</i>
<i>Other Revenues</i>	<i>\$3,713,495</i>	<i>\$3,713,495</i>
<i>Fund Balance</i>	<i>\$ 29,934</i>	<i>\$ 29,934</i>

The seven member Town Council recommends approval, by a vote of 7 to 0. The 22 member Warrant Committee recommends approval, by a vote of 18 to 0.

Article T MUNICIPAL BUDGET: Tax Cap Override – To see if the Town will vote to increase the property tax levy limit of \$5,772,322 established for the Town of Bar Harbor by State law in the event that the Municipal Budget approved by the Town results in a tax commitment that is greater than the property tax levy limit.

Written Ballot Vote Required.

Explanation:

In 2005 the State Legislature passed a “tax reform” law known as LD#1. This bill created a maximum municipal tax levy based upon this year’s tax, plus an allowance for personal income growth and the town’s tax base growth due to new construction. However, LD#1 allows Bar Harbor voters to increase that tax cap with the approval of a simple majority of the voters at Town Meeting. The only requirement is that a secret vote must be taken by written ballot. Using the State’s formula, the maximum tax levy for Bar Harbor’s Municipal Budget is \$5,772,322. As detailed in your copy of the annual Town Report, it appears that the proposed budget does not exceed the tax cap. However, due to the complexities of that law and the potential passage of the Northeast Creek article on June 8, a vote is still recommended to avoid any potential problems which might arise.

Recommendations:

The seven member Town Council recommends approval, by a vote of 7 to 0. The 22 member Warrant Committee recommends approval, by a vote of 18 to 0.

Article U MUNICIPAL BUDGET: State, Federal and Other Funds – In addition

to the amount in Article R, shall the voters appropriate and authorize the Town Council to expend additional state, federal and other funds received during FY11 (7/1/10 to 6/30/11) for municipal purposes, provided that such additional funds do not require the expenditure of local funds not previously appropriated?

Explanation:

From time to time, the Town Council receives funds from state and federal grants, and donations, as well as sources other than local tax dollars. This article gives the Town Council the authority to spend such funds, as long as no local property tax dollars are required to match them, other than those already in the budget.

Recommendations:

The seven member Town Council recommends approval, by a vote of 7 to 0. The 22 member Warrant Committee recommends approval, by a vote of 18 to 0.

Article V EARLY TAX PAYMENT DISCOUNT - To see if the voters will authorize the Tax Collector to accept early payments on the second half installment by the due date of the first half installment and provide the taxpayer with a 2.0% discount on the second installment only.

Explanation:

If this article passes, voters paying their second half taxes early will get a discount for doing so, as they have since 1995.

Recommendations:

The seven member Town Council recommends approval, by a vote of 7 to 0. The 22 member Warrant Committee recommends approval, by a vote of 18 to 0.

Article W PREPAYMENT OF TAXES - To see if the Town will vote to accept tax payments prior to the commitment date and to pay interest on said tax payments in the amount of 0% per year figured on a monthly basis until the tax commitment date is reached.

Explanation:

On rare occasions, taxpayers need to pay their taxes before they have been billed. The Town Treasurer cannot accept such early payments unless an article is passed.

Recommendations:

*The seven member Town Council recommends approval, by a vote of 7 to 0.
The 22 member Warrant Committee recommends approval, by a vote of 18 to 0.*

Article X TAX DUE DATE AND INTEREST RATE - To see if the Town will vote that the first half taxes shall be due and payable on or before September 30, 2010 and that second half taxes shall be due and payable on or before March 31, 2011 and that interest shall be charged at the annual rate of 7.0% on any unpaid taxes due on September 30, 2010 beginning October 1, 2010 and on any unpaid taxes due March 31, 2011 beginning April 1, 2011.

Explanation:

The due dates proposed are essentially the same as last year. The proposed interest rate is the highest allowed by State Law to encourage taxes to be paid on time.

Recommendations:

*The seven member Town Council recommends approval, by a vote of 7 to 0.
The 22 member Warrant Committee recommends approval, by a vote of 18 to 0.*

Article Y OVERPAYMENT OF TAXES - To see if the Town will vote to establish the interest rate to be paid to a taxpayer who is determined to have paid an amount of real estate taxes in excess of the amount finally assessed for 2010 at 3.0% per year on the amount of overpayment.

Explanation:

If a taxpayer wins a tax appeal against the Town, we must pay them interest on the amount of the difference. We are required by law to set that amount each year. We are suggesting the lowest interest rate allowed by law, which is 4% less than what we charge for late payments.

Recommendations:

*The seven member Town Council recommends approval, by a vote of 7 to 0.
The 22 member Warrant Committee recommends approval, by a vote of 18 to 0.*

Election of Town Officers & Ballot Articles
Action on the following articles will be at the Town Election with
Polls Open Tuesday, June 8, 2010, from 8:00 a.m. to 8:00 p.m.
Municipal Building Auditorium

Article 1 – ELECTION OF OFFICERS - To elect all necessary Town Officers as are required to be elected by secret ballot.

Article 2 – CHARTER MODIFICATION – As Recommended by the Charter Commission – Shall the Town of Bar Harbor approve the charter modification recommended by the Charter Commission, dated October 27, 2009 and summarized below?

Substantive changes to the Charter include:

- Clarifying provisions for proprietary budgets (budgets whose revenue comes from user fees, e.g. sewer budget), including a requirement for a public hearing.
- Limiting Town Meeting action to business advertised on the Warrant.
- Permitting Town Meeting to make amendments to the advertised budget only by ballot.
- Requiring one year as a registered voter before running for Council or School Committee.
- Eliminating the position of Secretary on the Council and School Committee, since they have no duties.
- Prohibiting employment of Councilors and School Committee members as part-time town employees or independent contractors. (Full-time employment is already prohibited.)
- Requiring advance declaration of write-in candidates and a minimum of 25 votes to be elected (approximately the same as the number of petition signatures required for a candidate to be listed on the ballot).
- Clarifying that citizen-initiated resolutions are subject to existing initiative provisions of the Charter, and adding a requirement that any Town Meeting vote must be by secret ballot at a town election, rather than at an open town meeting.

Full text of Charter Modification on file in the Town Clerk's office and the Jesup Memorial Library. Also, viewable on the Town's website: www.barharbormaine.gov –

Board/Committees – Charter Commission – Final Report Part 3:
<http://www.barharbormaine.gov/xhtml/187/Permalink/1104/>

Explanation: *If approved the ballot question will modify the entire Charter. While the Commission proposes keeping our current Town Meeting/Council/Manager form of government, approval of the ballot article would make a number of organizational changes, in addition to routine grammatical, typographical, usage and statutory adjustments in the language of the Charter.*

Recommendations:

The nine member Charter Commission recommends adoption, by a vote of 9 to 0.

The seven member Council recommends adoption, by a vote of 7 to 0.

The 22 member Warrant Committee recommends adoption, by a vote of 18 to 0.

Article 3 – LAND USE ORDINANCE AND MAP AMENDMENT - Downtown Village I, II and Village Transitional Districts, and Official Zoning Map

Amendment – Shall an Ordinance dated February 2, 2010 and entitled “An amendment to adopt standards for the Downtown Village I and II and Village Transitional Districts, Appendix C Table of Permitted Uses, and a revision to the Official Zoning District Map” be enacted?

Full text of Ordinance and Map Amendment on file in the Town clerk’s office. Also, viewable on the Town’s website: www.barharbormaine.gov – Departments – Planning Department – Current Zoning Projects: LUO Proposed Amendments for June Town Meeting - <http://www.barharbormaine.gov/xhtml/124/Permalink/489/>

Explanation: *This amendment replaces the downtown business districts with 3 new districts; with accompanying changes to the neighborhood district map, the definitions and Appendix C Table of Uses.*

Recommendations:

The five member Planning Board recommends adoption, by a vote of 4 to 0.

The 22 member Warrant Committee recommends adoption, by a vote of 15 to 3.

Article 4 – Definition of Commercial Agriculture and Appendix C Amendment –
Shall an Ordinance dated February 2, 2010 and entitled “An amendment to revise the definition of Commercial Agriculture and amend Appendix C, Table of Permitted Uses” be enacted?

Commercial Agriculture

An amendment to revise the definition of Commercial Agriculture and amend Appendix C, Table of Permitted Uses.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE XII Construction and Definitions

§ 125-109 Definitions

AGRICULTURE, COMMERCIAL -- Production of crops or animals and involving more than five acres of cultivated soil or keeping of more than 100 poultry or other animals raised for meat or other by-product. This use may include accessory uses of retail, restaurant and transient accommodation. [Added 11-4-2003]

Key to Appendix C

Permissibility of Use

- a = Activity or structure allowed without a permit, provided it complies with all provisions of this chapter.
- b = Activity or structure requires approval through site plan review process before it may be commenced or built. [Amended 5-5-2003]
- c = Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built.
- l = Activity or structure requires permit issued by local Plumbing Inspector

before it may be commenced or built.

m = Minor site plan review required. [Added 11-3-2009]

blank space = activity prohibited.

Changes to Appendix C

District	Commercial Agriculture
Bar Harbor Corridor	
Bar Harbor Historic	
Bar Harbor Residential	
Downtown Business	
Downtown Residential	
Education District	<u>c</u>
Emery	<u>b</u>
Hulls Cove Business	<u>c</u>
Hulls Cove Historic	<u>m</u>
Hulls Cove Residential Corridor	<u>m</u>
Hulls Cove Rural	b
Indian Point Residential	<u>b</u>
Indian Point Rural	b
Industrial	
Ireson Hill Corridor	<u>c</u>
Ireson Hill Residential	<u>b</u>
McFarland Hill Residential	<u>b</u>
McFarland Hill Rural	b
Marine Research	
Otter Creek	<u>m</u>
Resource Protection	m
Salisbury Cove Corridor	<u>c</u>
Salisbury Cove Residential	<u>b</u>
Salisbury Cove Rural	b
Salisbury Cove Village	<u>b</u>
Schooner Head	
Scientific Research	
Shoreland General Development I	
Shoreland General Development II	<u>b</u>
Shoreland Limited	<u>b</u>

Residential	
Stream Protection	
Town Hill Business	<u>b</u>
Town Hill Residential Corridor	<u>m</u>
Town Hill Residential	<u>b</u>
Town Hill Rural	<u>b</u>

Explanation: This language expands the definition of commercial agriculture to allow other accessory uses as part of the operation. Changes to allowances in districts are also proposed to be expanded.

Recommendations:

The five member Planning Board recommends rejection, by a vote of 4 to 0.

The 22 member Warrant Committee recommends rejection, by a vote of 11 to 7.

Article 5 - LAND USE ORDINANCE AMENDMENT –Certificate of Occupancy and Performance Guarantee Standards – Shall an Ordinance dated February 2, 2010 and entitled “An amendment to revise standards for Certificate of Occupancy and Performance Guarantee’s” be enacted?

Standards for Certificate of Occupancy and Performance Guarantee

An amendment to revise standards for Certificate of Occupancy and Performance Guarantee’s.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE VIII Permits

§125-80. Certificate of occupancy.

A certificate of occupancy, certifying that all applicable provisions of this chapter have been satisfied, shall be obtained from the Code Enforcement Officer:

- A. After a building, structure or part thereof has been erected, altered, enlarged or moved pursuant to a permit, site plan approval or subdivision approval, for the proposed use before the building or structure or part thereof may be used or occupied;
- B. After a site has been modified or otherwise developed pursuant to a permit, site plan approval, or subdivision approval to ensure all terms, conditions and the plan approved by the Planning Board, the Design Review Board, the Board of Appeals, the Planning Department or the Code Enforcement Officer, as applicable, have been met;
- ~~B-C.~~ After a building has been modified to accommodate additional dwelling units, before such units may be used or occupied;
- ~~C-D.~~ After a building or structure has been modified to accommodate a home occupation, before said home or structure may be used or occupied for a home occupation;
- ~~D-E.~~ Before a change in use of a nonconforming structure or lot;
- ~~E-F.~~ Before the occupancy and use, or change in use, of vacant land, except for the raising of crops.

ARTICLE IX Performance Guarantees

§125-93. Required improvements.

A. Applicants whose developments are subject to site plan or subdivision review shall provide performance guarantees sufficient to ensure the completion of the following improvements in the town rights of way, easements or property:

- (1) Monuments required by §135-69N(1);
- (2) Planting, buffering or screening required by §125-67E(12) and H or 125-69L(6);
- (3) Street signs;
- (4) Streets;
- (5) Sidewalks;
- (6) Water supply facilities, including fire hydrants or ponds;
- (7) Sewage disposal facilities;
- (8) Stormwater drainage facilities;
- (9) Utilities;
- (10) Restoration of mining sites pursuant to §125-69L(5).

B. Performance Guarantees may also be used for improvements on private property. An applicant may request permission to provide a performance guarantee to

assure that all terms, conditions and plans approved by the Planning Board, the Design Review Board, the Board of Appeals, or the Planning Department will be constructed within a year of the lawful issuance of an occupancy permit. Said permission shall be reviewed by the permitting authority and as required in this article.

***Explanation:** This ordinance requires that all elements of an approved site plan or subdivision are completed before the issuance of occupancy permits unless a performance guarantee is provided to the Town.*

Recommendations:

The five member Planning Board recommends adoption, by a vote of 4 to 0.

The 22 member Warrant Committee recommends adoption, by a vote of 18 to 0.

Article 6 - LAND USE ORDINANCE AMENDMENT – Planned Unit Development – Outlying Area – Shall an Ordinance dated February 2, 2010 and entitled “An amendment to revise standards for Planned Unit Development – Outlying Area” be enacted?

Planned Unit Development – Outlying Area

An amendment to revise standards for Planned Unit Development – Outlying Development.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE V Site Plan Review

§125-69. Standards for particular uses, structures or activities.

M. Planned Unit Development - Outlying Area (PUD-O). [Amended 6-13-2006EN]

(4) Parcel size and eligibility. [Amended 11-4-2008]

(b) An application for a PUD-O may consist of land in more than one ownership, provided that all land comprising the parcel lies entirely within the PUD-O Overlay District ~~and is contiguous. Lots separated by a minor street, as defined, may be considered contiguous for this purpose.~~

Explanation: This amendment allows multiple applicants to apply for a Planned Unit Development in the Outlying areas (only) on multiple parcels.

Recommendations:

The five member Planning Board recommends adoption, by a vote of 4 to 0.

The 22 member Warrant Committee recommends adoption, by a vote of 18 to 0.

Article 7 - LAND USE ORDINANCE AND MAP AMENDMENT – Town Hill Village District and Map and Town Hill Mini-Plan – Shall an Ordinance dated February 2, 2010 and entitled “An amendment to rezone parts of Town Hill into the Town Hill Village District,” along with an amendment to the 2007 Comprehensive Plan entitled “Town Hill Mini Plan” be enacted?

Note: This article proposes changes to the Land Use Ordinance and the Comprehensive Plan which affect Town Hill. The changes to both documents are being presented in the same articles so that the provisions of both documents will remain compatible, as required by state statute. If adopted, this article will also amend various definitions in the Land Use Ordinance.

Town Hill Village District and Map and Town Hill Mini-Plan

An amendment to rezone parts of Town Hill into the Town Hill Village District and make amendments to the Neighborhood District map and an amendment to the 2007 Comprehensive Plan.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE III Land Use Activities and Standards

§125-44.1 Town Hill Village.**A. Purpose**

The Town Hill Village District is the primary growth area for commercial development in Town Hill. It is also the center for social and cultural activity to its residents. Mixed use developments that encourage commercial activity at the street level are desired. New development, redevelopment and infill development shall respect the existing scale of the village.

B. Dimensional Standards

- (1) Minimum lot size: 40,000 square feet
- (2) Minimum road frontage and lot width: 100 [feet].
- (3) Minimum front setback: 35 [feet].
- (4) Minimum side setback: 10 [feet].
- (5) Minimum rear setback: 10 [feet].
- (6) Maximum lot coverage: 50%
- (7) Maximum height: 35 [feet].
- (8) Minimum area per family: 20,000 square feet.

C. Allowed Uses

- (1) Uses in buildings up to 15,000 SF building footprint in total allowed by a building permit or a change of use permit by the Code Enforcement Officer: retail; municipal and government uses; restaurants; theaters; galleries; services; professional offices; vacation rentals; food-processing establishments; single and two-family dwellings; all bed & breakfast; cabins; artist studio; childcare centers; family childcare; all types of schools; commercial greenhouse & nursery; Eleemosynary, educational or scientific institution; farmer's market; museum; research facility
- (2) Uses in buildings up to 15,000 SF building footprint in total allowed by site plan review: medical clinics; motels; banks; multi-dwelling I and II; redemption centers
- (3) Uses in buildings greater than 15,000 SF building footprint in total allowed by a commercial PUD: retail; municipal and government uses; restaurants; theaters; galleries; professional offices; vacation rentals; food-processing establishments; single and two-family dwellings; all bed & breakfast; cabins; grocery stores; childcare centers; family childcare; all

types of schools; commercial greenhouse & nursery; Eleemosynary, educational or scientific institution; farmer's market; liquor store; museum; research facility

D. Allowed Activities:

1. Activities allowed without a permit, provided it complies with all provisions of the Section 125: activities necessary for managing/protecting land; filling/earth moving activity less than 10 cubic yards; forest management activities except timber harvesting; non-intensive recreation uses not requiring structures; public utility installation.
2. Activities allowed by building permit and require approval of the Code Enforcement Officer: driveway construction; road construction (after subdivision approval has been granted); filling/earth moving activity 10 cubic yards or more; essential services.

E. Other Requirements

- (1) All changes to facades and signs require Design Review Board approval.
- (2) Parking requirements shall follow the requirements found in Section 125-67 D.

Article V Site Plan Review

§125-69. Standards for particular uses, structures or activities.

Notwithstanding and in addition to any other provision of this chapter, before granting site plan approval for any land use activity described in this section, the Planning Board must find that the proposed plan will comply with such of the following standards as are applicable:

V. Planned Unit Development - Commercial (PUD-C)

(1) Purpose and intent.

- (a) The purpose of the Planned Unit Development – Commercial is to provide an opportunity for large-scale development in the village of Town Hill to embody the principles of:
 - [1] Clustering of buildings to create public spaces;
 - [2] Compatible design with the environs;
 - [3] Providing adequate access for area residents to local goods,

services and employment; and

[4] Reducing negative impacts to the environment from the development.

(b) A PUD-C is also offered to seek development projects that:

[1] Include housing;

[2] Provide amenities for the residents in the Town Hill area;

[3] Complement the visual character of the district; and

[4] Encourage small business growth and development.

(c) The intent of PUD-C is to review large scale development on a case by case basis which will benefit the Town as a whole. The PUD-C seeks to provide for enhanced planned developments by:

[1] Allowing greater freedom of design;

[2] Improving the opportunity for flexibility and creativity in the land development process; and

[3] Undertaking techniques which foster community and pedestrian access.

(2) District and authority.

(a) The Planned Unit Development-Commercial is an overlay option to zoning in the Town Hill Village District. Any land zoned in shoreland shall continue to comply with Section 125-68.

(b) Applicants shall permit a project as a PUD-C; for buildings greater than 15,000 in footprint in total.

(c) The Planning Board is the permitting authority for a PUD-C; however, any other permits and approvals required must be sought and received by the applicant. A PUD-C does not relieve the applicant from obtaining any local, state and/or federal permits that may be required.

(3) PUD-C process.

(a) The PUD-C process shall include the requirements of a site plan and subdivision approval process (if applicable) as outlined in Articles V and VI. Any modification upon approval shall be subject to the requirements of § 125-58B.

(b) In addition to Subsection S(3)(a) above, applicants shall prepare a site analysis diagram graphically identifying major physical features of the site, including but not limited to existing structures and improvements, land cover type, wetlands, watercourses and significant vernal pools, slopes greater than 20%, and district boundaries. The site analysis shall identify context of the neighborhood surrounding the project area by showing graphically

the relationship of proposed new structures or alterations to nearby preexisting structures in terms of character and intensity of use (e.g., scale, materials, setbacks, roof and cornice lines, and other major design elements). The analysis shall also include a graphic illustration of the visual impacts and viewshed alterations that the proposed development will have on neighboring properties because of the location and configuration of proposed structures, parking areas, open space, and gradient changes.

- (c) Prior to submitting an application for a PUD-C, and after the submission of the sketch plan, the Planning Department will hold a neighborhood meeting. Abutters within 300 feet of the application parcel shall receive notice of this meeting.

(4) Parcel size and eligibility.

- (a) The minimum size of a parcel seeking application for PUD-C shall be the minimum lot size in its neighborhood district.

- (b) The application parcel cannot contain in the aggregate more than 30% of the following land type(s):

[1] Wetlands and significant vernal pools;

[2] Sustained slopes greater than 20%;

[3] Areas within 75 feet, horizontal distance, of the normal high water line of a stream, great pond, river, saltwater body or significant vernal pool;

[4] Floodplains.

- (c) An application for a PUD-C may consist of land in more than one ownership, provided that all land comprising the parcel lies entirely within the PUD-C overlay district and is contiguous. Lots separated by a minor street as defined may be considered contiguous for this purpose.

- (d) Proposed developments may include preexisting buildings, provided that all PUD-C requirements are satisfied by each new or existing building and these are included in calculations for the PUD-C as a whole.

- (5) Permitted uses. A PUD-C must comply with the allowed uses in the Town Hill Village.

(6) Intensity of development.

- (a) Number of allowable dwelling units – the number of allowable dwelling units shall be calculated by dividing the minimum lot area per dwelling unit into the application parcel area.

- (b) Minimum setback shall be established by the Planning Board to ensure the purpose and intent of the PUD-C is met.

- (c) All free-standing signage shall be ground signs.
- (d) PUD-C applications shall incorporate at least 3 of the following provisions.
 - [1] 20% affordable housing if residential housing is included in the application;
 - [2] 10% deeded open space;
 - [3] Active recreation space;
 - [4] The projects meets, either by application or by affidavit for adherence during construction, the standards of Leadership in Energy & Environmental Design of the U.S. Greenbuilding Council ("LEEDS") or an approved equivalent;
 - [5] Construction of new pedestrian amenities to connect the proposed development to other areas, amenities or goods and services;
 - [6] Formal access to public transportation;
 - [7] Restoration or preservation of an historic resource existing on the property;
 - [8] All public utilities, other than stormwater management systems, underground on the application parcel;
- (e) The aggregate lot coverage of a PUD-C cannot exceed that of the neighborhood district.
- (f) In no event shall height requirements be allowed to exceed the requirements of the underlying neighborhood district.
- (g) Other standards. The standards found in § 125-67 may be considered for modification in instances where the applicant adequately shows that the proposed application meets the purpose and intent of a PUD-C.
- (7) Criteria for approval.
 - (a) In reviewing PUD-C applications, the Planning Board shall use the requirements found in §§ 125-67 and 125-69 as applicable and as may be modified to meet the purpose and intent of a PUD-C
 - (b) The Planning Board also shall use the requirements of §125-68, which shall not be modified, for review of property in a shoreland zone(s) as may be applicable.
 - (c) All Planning Board approvals of PUD-Cs are contingent upon the development meeting the express purpose and intent of a PUD-C.

ARTICLE XII Construction and Definitions

• • • •

§ 125-109 Definitions.

The following terms shall have the following meanings:

• • • •

BED and BREAKFAST I – Overnight accommodations of no more than 5 rooms and a morning meal in an owner-occupied dwelling unit constructed before June xxx, 2010, provided to transients for compensation. Breakfast is included in the room rate.

BED and BREAKFAST II – Overnight accommodations and a morning meal in a dwelling unit occupied by the owner/innkeeper or a designated employee constructed before June xxx, 2010, provided to transients for compensation. Breakfast is included in the room rate.

BED and BREAKFAST III – Overnight accommodations and a morning meal in a dwelling unit occupied by the owner/innkeeper or a designated employee provided to transients for compensation. Breakfast is included in the room rate.

BED and BREAKFAST IV – Overnight accommodations, a morning meal, and additional meals in a dwelling unit occupied by the owner/innkeeper or a designated employee constructed before June xxx, 2010, provided to transients for compensation. Breakfast is included in the room rate. The meals may be open to the public.

BED and BREAKFAST V – Overnight accommodations, a morning meal, and additional meals in a dwelling unit occupied by the owner/innkeeper or a designated employee provided to transients for compensation. Breakfast is included in the room rate. The meals may be open to the public.

CABINS - - free-standing dwelling units or cottages on a parcel; said units are subject to seasonal closure

CHILD CARE CENTER - A building for providing care and protection for 3 or more children under 13 years of age.

FAMILY CHILD CARE - Care and protection that is provided in a dwelling unit on a regular basis, for 3 to 12 children under 13 years of age who are not the children of the provider or who are not residing in the provider's dwelling. If a provider is caring for children living in that provider's home and is caring for no more than 2 other children, then the use is customary to a dwelling unit and is not regulated herein.

FOOD PROCESSING ESTABLISHMENT – An establishment in which food or beverages are processed or otherwise prepared for eventual human consumption and may

be served or sold on the premises; in the downtown village district, this use shall not include fresh or frozen fish, meat or poultry processing

GALLERY – A retail establishment primarily engaged in the sale of drawings, photography, paintings, sculpture and the like to customers for their own individual or household use. Accessory uses may include restaurant.

MOTEL – A facility providing sleeping accommodations for transients with additional accessory facilities and services available to transients at the motel only.

PROFESSIONAL OFFICE BUILDING -- A building in which there is located the office of a professional, such as an architect, accountant, dentist, ~~doctor of medicine~~, lawyer, and the like, or in which a business conducts its administrative, financial or clerical operations, but not including any manufacturing or sale of goods or merchandise.

SERVICES – Establishments primarily engaged in providing assistance, as opposed to products, to individuals, business, industry, government and other enterprises

TRANSIENT -- A person staying at a place that does not constitute his or her home or usual dwelling unit for less than 30 days.

TRANSIENT ACCOMMODATIONS – a collective term to describe Bed & Breakfast, Hotels, Motels and Conference Centers

A. ~~TA 1 – Bed and breakfast accommodations in the private, year-round residence of the host family who live on the premises (one to three rooms; maximum six guests). Breakfast is the only meal provided.~~

B. ~~TA 2 – A building or buildings where for compensation lodging is provided (four to 25 rooms). No meals are served.~~

C. ~~TA 3 – An existing building, constructed and completed prior to June 10, 1986, where for compensation lodging is provided (four to 10 rooms). TA 3 is permitted in districts where it is felt that lodging for transients is necessary to preserve or maintain many of Bar Harbor's residential structures: [Amended 11-5-1991; 11-2-2004]~~

(1) ~~No building shall be expanded in floor area or volume by more than 10% over the lifetime of the building;~~

(2) ~~There shall not be constructed any exterior stairway or fire escape enclosed or otherwise above the ground floor visible from the street on which the building fronts; and~~

(3) ~~Breakfast is the only meal provided.~~

D. ~~TA 4 – An existing building, constructed and completed prior to June 10, 1986, where for compensation lodging is provided (11 to 25 rooms). TA 4 is permitted in districts where it is felt that lodging for transients is necessary to preserve or~~

~~maintain many of Bar Harbor's residential structures: [Amended 11-5-1991; 11-2-2004]~~

- ~~(1) — No building shall be expanded in floor area or volume by more than 10% over the lifetime of the building;~~
- ~~(2) — There shall not be constructed any exterior stairway or fire escape enclosed or otherwise above the ground floor visible from the street on which the building fronts; and~~
- ~~(3) — Breakfast is the only meal provided.~~
- ~~E. — TA 5 — A building or buildings where for compensation lodging and one or more meals for guests only are provided (four to 25 rooms). [Amended 5-6-2002]~~
- ~~F. — TA 6 — An existing building, constructed and completed prior to June 10, 1986, where for compensation lodging and meals for guests only are provided (four to 25 rooms). TA 6 is permitted in districts where it is felt that lodging for transients is necessary to preserve or maintain many of Bar Harbor's residential structures: [Amended 11-5-1991; 11-2-2004]~~
 - ~~(1) — No building shall be expanded in floor area or volume by more than 10% over the lifetime of the building;~~
 - ~~(2) — There shall not be constructed any exterior stairway or fire escape enclosed or otherwise above the ground floor visible from the street on which the building fronts.~~
- ~~G. — TA 7 — A building or buildings where for compensation lodging and meals are provided (four to 25 rooms). Accessory uses subject to site plan review include restaurant, gift shop and the like.~~
- ~~H. — TA 8 — A building or buildings where for compensation lodging and meals are provided (25 or more rooms). Accessory uses subject to site plan review include restaurant, cocktail lounge, gift shop, conference room, recreational facilities, such as swimming pool, game courts, and recreational rooms, and the like.~~

MAP AMENDMENT

Assign the Town Hill Village District to the following Property Tax Map and Lot numbers pursuant the Proposed Zoning Changes map created on February 2, 2010:

Map-Lot	Map-Lot	Map-Lot	Map-Lot
227-031-000	227-033-000	227-092-000	227-018-001
227-030-000	227-036-000	227-091-000	227-019-000
227-029-000	227-035-000	227-016-000	227-087-000
227-010-000	227-044-000	227-017-000	227-086-000
227-009-000	227-043-000	227-018-004	227-085-000
227-011-000	227-042-000	227-018-003	227-084-000

Map-Lot	Map-Lot	Map-Lot	Map-Lot
227-015-000	227-060-000	227-090-000	227-083-000
227-012-000	227-061-000	227-089-000	227-032-000
227-013-000	227-041-000	227-088-000	227-040-000
227-020-000			

Copy of the Town Hill Village District Mini Plan, Map, and Table of Uses on file in the Town Clerk's office. Also, viewable on the Town's website at:
www.barharbormaine.gov, www.barharbormaintent.gov – Departments – Planning
 Department – Current Zoning Projects: LUO Proposed Amendments for June
 Town Meeting – Town Hill Mini Plan Revised
<http://www.barharbormaine.gov/xhtml/124/Permalink/489/>

Explanation: This article proposes changes to the Land Use Ordinance and the Comprehensive Plan which affect Town Hill. The changes to both documents are being presented in the same articles so that the provisions of both documents will remain compatible, as required by state statute. If adopted, this article will also amend various definitions in the Land Use Ordinance

Recommendations:

*The five member Planning Board recommends rejection, by a vote of 4 to 0.
 The 22 member Warrant Committee recommends rejection, by a vote of 11 to 7.
 The seven member Council, pursuant to the Town Charter §C-5(2)(e), recommends adoption of the Town Hill Village District Mini Plan, by a vote of 5 to 2.*

Article 8 – LAND USE ORDINANCE AMENDMENT - Village Historic District and Official Zoning Map – Shall an Ordinance dated February 2, 2010 and entitled “An amendment to adopt standards for Village Historic District and revise the Official Zoning District Map” be enacted?

Village Historic District

An amendment to adopt standards for the Village Historic District and revise the Official Zoning District Map.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE II Establishment of Districts

§125-12. Neighborhood districts. [Amended 11-5-1991; 5-1-1995]

For the purposes of this chapter, all land and water areas in the Town of Bar Harbor are hereby divided into the following districts:

Village Historic ~~Bar Harbor Historic~~

§ 125-18 Village Historic

A. Purpose

The Village Historic District consists of mostly single family homes and historically significant estates. New development, re-development, and infill development shall respect and reflect the following standards to assure that the design and use of properties within this district are compatible to any nearby properties.

B. Dimensional Standards

1. Minimum lot size: 40,000 square feet.
2. Minimum road frontage and lot width: 100 feet.
3. Minimum front setback: 30 feet.
4. Minimum side setback: 25 feet.
5. Minimum rear setback: 25 feet.
6. Maximum lot coverage: 25%.
7. Maximum height: 40 feet.
8. Minimum area per family: 40,000 square feet.

§ 125-18. ~~Bar Harbor Historic.~~

- ~~A. Minimum lot size: 40,000 square feet.~~
- ~~B. Minimum road frontage and lot width: 100 [feet].~~
- ~~C. Minimum front setback: 25 [feet].~~
- ~~D. Minimum side setback: 25 [feet].~~
- ~~E. Minimum rear setback: 25 [feet].~~
- ~~F. Maximum lot coverage: 35%.~~
- ~~G. Maximum height: 40 [feet].~~
- ~~H. Minimum area per family: 40,000 square feet. [Amended 6-13-2006 EN]~~

C. Allowed Uses

1. Principal uses allowed by building permit or a change of use permit with the Code Enforcement Officer: Accessory dwelling unit; home occupation;

public or private park with minimal structural development; vacation rental on homestead exemption property; and single family dwelling.

2. Accessory Uses that are usual and normal to principal use are allowed unless otherwise prohibited. These allowances are subject to review by the Code Enforcement Officer.
3. Uses allowed by site plan review: Bed and Breakfast I and private clubs, provided the location is in a building constructed before June 8, 2010 for properties with lot frontage or access on West Street only; eleemosynary except for properties with lot frontage or access on Harbor Lane and Eden Street; pier, dock, wharf, or breakwater; noncommercial greenhouse; road construction.

D. Allowed Activities:

1. Activities allowed without a permit, provided it complies with all provisions of the Section 125: activities necessary for managing/protecting land; filling/earth moving activity less than 10 cubic yards; forest management activities except timber harvesting; non-intensive recreation uses not requiring structures; public utility installation/essential services.
2. Activities allowed by building permit and require approval of the Code Enforcement Officer: driveway construction; filling/earth moving activity 10 cubic yards or more.

E. Other Requirements:

1. All changes to facades and signs shall require Design Review Board approval.
2. Parking for Bed and Breakfast I shall be shielded from the view of neighboring properties located to the side and rear of the property where the Bed and Breakfast is located. Shielding shall consist of vegetative screening.
3. Accessory structures and uses shall be located in the side or rear yard of the property.

ARTICLE V Site Plan Review

§125-67. General review standards.

B. Lot standards. Except as modified by the provisions for planned unit developments set forth in § 125-69M and S, as applicable, any proposed structure or lot must comply with the lot size, area per family, road frontage, lot width, and front, side and rear setback requirements, as determined by reference to Article III for each district in which it is proposed subject to the following: [Amended 5-7-1991; 11-5-1991; 5-1-1995; 5-6-1996; 11-2-1999; 11-4-2003; 5-3-2004; 11-2-2004; 5-2-2005; 6-13-2006^{iEN}]

- (1) Any yard adjacent to a street shall be considered a front yard.
- (2) Front setback distances shall be measured from the center line of the traveled way in all districts except the Village Historic ~~Bar Harbor Historic~~, Bar Harbor Historic Corridor, Bar Harbor Residential, Downtown Business, Downtown Residential, Hulls Cove Business, and Shoreland General Development I Districts where setback distances shall be measured from the edge of the lot line.

D. Parking requirements. Any site plan for an activity that can be expected to generate vehicular traffic shall provide for off-street parking in accordance with the following:

- (3) The following minimum off-street parking shall be provided and maintained in the case of new construction, alterations or changes of use which would increase the parking demand according to the standards set forth below, or any increase in the area used which increases the number of persons using the premises. In the event of such construction, alterations, change or increase, the entire premises or use, and not just that portion constructed, altered, changed or increased, shall become subject to the following requirements.

(b) Transient accommodations:

- [1] ~~TA-1~~ Bed and Breakfast I and TA-3: one parking space plus one parking space for each guest room.

BB. Signs and advertising. All site plans shall demonstrate that all signs related to the proposed development will comply with the following standards, to which all signs located within the Town of Bar Harbor are subject, regardless of the need for site plan approval. In addition, activities located within the Design Review Overlay District that require a certificate of appropriateness pursuant to Article XIII, Design Review, are subject to additional requirements set forth in the standards of Article XIII. [Amended 11-5-1991; 11-2-1999; 11-4-2003; 6-13-2006; 11-7-2006; 11-6-2007; 6-9-2009]

- (6) Signs subject to the review by the Design Review Board for a certificate of appropriateness.

(a) Building permits required.

- [1] All signs listed below are required to receive a certificate of

appropriateness from the Design Review Board prior to receiving a building permit if they are located within the following districts:

[a] Village Historic ~~Bar Harbor Historic~~.

§125-69. Standards for particular uses, structures or activities.

Notwithstanding and in addition to any other provision of this chapter, before granting site plan approval for any land use activity described in this section, the Planning Board must find that the proposed plan will comply with such of the following standards as are applicable:

F. Manufactured housing.

- (1) It is the policy of the Town of Bar Harbor to allow manufactured housing on individual, undeveloped lots in a variety of locations so as to offer a viable housing option for the citizens of Bar Harbor. Such housing shall be subject to the same requirements as single-family dwellings except as provided in this Subsection F. Mobile homes are prohibited in the Downtown Business, Downtown Residential, Village Historic ~~Bar Harbor Historic~~, and Shoreland General Development Districts. [Amended 11-5-1991]

ARTICLE XII Construction and Definitions

§ 125-109 Definitions

BED & BREAKFAST, I – Overnight accommodations and a morning meal in an owner-occupied dwelling unit constructed before June 8, 2010, provided to transients for compensation. Breakfast is included in the room rate.

~~A. TA-1 – Bed and breakfast accommodations in the private, year-round residence of the host family who live on the premises (one to three rooms; maximum six guests). Breakfast is the only meal provided.~~

ARTICLE XIII Design Review

§125-112. Applicability of design review.

A. Design Review Overlay Districts. [Amended 11-4-2003; 11-2-2004; 6-9-2009; 11-3-2009]

- (1) The provisions of this article shall apply only within the geographic limits of the following Design Review Overlay District, hereinafter called the "district."
 - (2) Boundaries of the Design Review Overlay District. The district shall include the following neighborhood districts as shown on the Official Neighborhood Districts Map of Bar Harbor: the Downtown Business District; the Shoreland General Development I District; the Village Historic District ~~Bar Harbor Historic District~~; the Bar Harbor Historic Corridor District (excluding those corridor districts on Route 3 that are within the area of the Town shown on Tax Map 11D); and the Town Hill Business District. The district is depicted on the map titled "Design Review Overlay District of the Town of Bar Harbor, Maine." The district also includes individual properties with the following uses, regardless of their district location: Bed and Breakfast I, ~~TA-1~~, TA-3, TA-4, and TA-6.
 - (3) The District also includes the districts and area included in the Sign Ordinance, §125-67BB.
- B. Activities subject to design review. Any of the following activities shall be undertaken within the designated district only after a certificate of appropriateness has been issued by the Code Enforcement Officer of the Town of Bar Harbor after review and approval by the Review Board: [Amended 11-4-2003; 5-3-2004; 11-2-2004]
- (1) The demolition, in whole or in part, of a building or structure classified as historic as denoted in Appendix A and/or B or is a Bed and Breakfast I ~~TA-1~~, TA-3, -4 or -6, respectively; [Amended 11-4-2003]
 - (2) The moving or relocation of a building, sign or structure classified as historic as denoted in Appendix A and/or B or is a Bed and Breakfast I ~~TA-1~~, -3, -4 or -6, respectively; [Amended 11-4-2003]
 - (3) Any material change, other than routine maintenance and repair and minor renovations as outlined in Subsection C, in the exterior appearance of an existing building, sign, fence, or structure classified as historic as denoted in Appendix A and/or B or is a Bed and Breakfast I ~~TA-1~~, TA-3, -4 or -6, respectively, including additions, reconstruction, alterations, or maintenance involving a change in the exterior color or materials; [Amended 11-4-2003]
-

Appendix C Amendments as filed in the Town Clerk's office.

MAP AMENDMENT

Assign the Village Historic District to the following Property Tax Map and Lot numbers pursuant the Proposed Zoning Changes map created on:

Map-Lot	Map-Lot	Map-Lot	Map-Lot
106-055-001	104-017-000	105-041-000	111-008-000
103-012-000	104-036-000	105-042-000	111-012-000
103-014-000	104-037-000	105-085-000	111-013-000
103-021-000	104-038-000	105-086-000	111-016-000
103-016-000	104-039-000	105-084-000	111-022-000
103-015-000	104-040-000	108-016-000	111-018-000
103-017-000	104-041-000	108-015-000	111-017-000
103-019-000	104-068-000	108-017-000	111-019-000
103-025-000	104-069-000	108-021-000	111-020-000
103-026-000	104-070-000	108-018-000	111-022-001
103-023-000	104-009-000	108-019-000	111-021-000
103-024-000	104-007-000	108-020-000	111-023-001
104-032-000	104-006-000	108-062-000	111-023-002
104-033-000	102-001-000	108-063-000	111-027-000
104-014-000	104-005-000	108-064-000	111-026-000
104-013-000	104-004-000	108-066-000	111-025-000
104-015-000	104-003-000	111-006-000	115-022-001
104-016-000	104-002-000	108-065-000	115-022-000
104-018-000	104-001-000	111-007-000	

Explanation: Adoption of this amendment would replace the existing Bar Harbor Historic District.

Recommendations:

The five member Planning Board recommends adoption, by a vote of 4 to 0.

The 22 member Warrant Committee recommends adoption, by a vote of 19 to 0.

Warrant Article

Article 9 - LAND USE ORDINANCE AND MAP AMENDMENT – Village Residential District and Official Zoning Map Amendment – Shall an Ordinance dated February 2, 2010 and entitled “An amendment to adopt standards for Village Residential District and revise the Official Zoning District Map” be enacted?

Village Residential District

An amendment to adopt standards for the Village Residential District and revise the Official Zoning District Map.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE II Establishment of Districts

§125-12. Neighborhood districts. [Amended 11-5-1991; 5-1-1995]

For the purposes of this chapter, all land and water areas in the Town of Bar Harbor are hereby divided into the following districts:

Village Residential

Section 125-20 Village Residential

A. Purpose

The Village Residential District encompasses the well-established residential neighborhoods that surround the traditional downtown area of Bar Harbor. It consists mostly of single family homes, but also includes condominium and multi-family type uses. New development, re-development and infill development shall respect and reflect standards to assure that the uses are compatible to any nearby properties.

B. Dimensional Standards

1. Minimum lot size: 10,000 square feet with sewer, and 40,000 square feet without sewer.
2. Minimum road frontage and lot width: 100 feet.
3. Minimum front setback for structures: 20 feet.

4. Minimum side setback for principal structures: 10 feet.
5. Minimum side setback for accessory, nonresidential structures: 5 feet.
6. Minimum rear setback for principal structures: 10 feet.
7. Minimum rear setback for accessory, nonresidential structures: 5 feet.
8. Maximum lot coverage: 25%.
9. Maximum height: 40 feet.
10. Minimum area per family: 10,000 square feet with sewers; or 20,000 square feet without sewers.

C. Allowed Uses

1. Principal uses allowed by building permit or a change of use permit with the Code Enforcement Officer: government facility/use with lot frontage on Route 3 or Eagle Lake Road; home occupation; municipal school; municipal use; public or private park; single and two-family dwelling; vacation rental on homestead exemption property.
2. Accessory Uses that are usual and normal to a principal use are allowed. These allowances are subject to review by the Code Enforcement Officer.
3. Uses allowed by site plan review: Multifamily I; wireless communication; nursing/convalescent home in building constructed before June 8, 2010, road construction.
 - a. The following uses are permitted by site plan review for lots with frontage on Route 3 or 233: professional office building; medical clinic; undertaking establishment; family child care; child care center; art gallery, museum; private school; veterinary hospital or clinic.
4. Uses allowed by PUD: Multifamily II.

D. Allowed Activities:

1. Activities allowed without a permit, provided it complies with all provisions of the Section 125: activities necessary for managing/protecting land; filling/earth moving activity less than 10 cubic yards; forest management activities except timber harvesting; non-intensive recreation uses not requiring structures; public utility installation/essential services.
2. Activities allowed by building permit and which require approval of the Code Enforcement Officer: driveway construction; filling/earth moving

activity 10 cubic yards or more; noncommercial greenhouse; and wind turbine.

E. Other Requirements:

1. Accessory structures shall be located in the side and rear yard of the property.

ARTICLE V Site Plan Review

§125-67. General review standards.

- B. Lot standards. Except as modified by the provisions for planned unit developments set forth in § 125-69M and S, as applicable, any proposed structure or lot must comply with the lot size, area per family, road frontage, lot width, and front, side and rear setback requirements, as determined by reference to Article III for each district in which it is proposed subject to the following: [Amended 5-7-1991; 11-5-1991; 5-1-1995; 5-6-1996; 11-2-1999; 11-4-2003; 5-3-2004; 11-2-2004; 5-2-2005; 6-13-2006[#] EN] }

- (2) Front setback distances shall be measured from the center line of the traveled way in all districts except the Bar Harbor Historic, Bar Harbor Historic Corridor, Bar Harbor Residential, Downtown Business, Downtown Residential, Hulls Cove Business, Village Residential and Shoreland General Development I Districts where setback distances shall be measured from the edge of the lot line.

§125-67(D)(3)

- D. Parking requirements. Any site plan for an activity that can be expected to generate vehicular traffic shall provide for off-street parking in accordance with the following requirements. Parking requirements may be reduced, as determined by the Planning Board, when at least five percent of the required parking spaces are designated for low-emitting and fuel-efficient vehicles, carpools or vanpools or any combination thereof, and are marked as such.
- (3) The following minimum off-street parking shall be provided and maintained in the case of new construction, alterations or changes of use which would increase the parking demand according to the standards set forth below, or any increase in the area used which increases the number of persons using the premises. In the event of such construction, alterations, change or increase, the entire premises or use,

and not just that portion constructed, altered, changed or increased, shall become subject to the following requirements.

(p) Museum and Art Gallery: one parking space per each two employees.
[Added 11-4-1997]

(v) Medical Clinic: four parking spaces per 1,000 square feet of gross leasable area, plus a designated loading zone for ambulance and bus drop off and pick up.

(w) Nursing/Convalescent Home: one parking space per employee on the largest work shift plus a designated loading zone for ambulance and bus drop off and pick up.

§125-69. Standards for particular uses, structures, or activities

M. Planned Unit Development - Outlying Area (PUD-O). [Amended 6-13-2006ⁱⁱⁱ ~~EN~~]]

(2) District and authority.

(a) The Planned Unit Development-Outlying Area is an overlay option to zoning in existing neighborhood districts. The districts in which the PUD-O overlay is permitted are Bar Harbor Residential and Village Residential in those areas not served by the Town sewer system; Hulls Cove Rural in those areas not served by the Town sewer system; Emery; Indian Point Residential; Indian Point Rural; McFarland Hill Residential; McFarland Hill Rural; Town Hill Corridor; Town Hill Residential; Town Hill Rural; Otter Creek; Salisbury Cove Corridor; Salisbury Cove Residential; and Salisbury Cove Rural. Properties in the above-noted neighborhood districts with a portion of land in the Shoreland Residential, Resource Protection and Stream Protection Neighborhood Districts may apply for a PUD-O; however these properties must still meet shoreland standards contained in §125-68.

S. Planned Unit Development - Village (PUD-V). [Added 6-13-2006[Amended 6-13-2006]

(2) District and authority.

(a) The Planned Unit Development-Village is an overlay option to zoning in existing neighborhood districts. The districts in which the PUD-V overlay is permitted are Downtown Business I and II; Downtown Residential; Bar Harbor Residential, and Village Residential where served by the Town sewer

system; and Hulls Cove Business, where served by the Town sewer system. Properties in the above-noted neighborhood districts with a portion of land in the Shoreland Residential, Shoreland Commercial I and II, Resource Protection and Stream Protection Neighborhood Districts may apply for a PUD-V; however, these properties must still meet shoreland standards contained in § 125-68.

ARTICLE XII Construction and Definitions

§ 125-109 Definitions

CHILD CARE FACILITY – A licensed child care center, family child care or nursery school.

CHILD CARE, CENTER – a building for providing licensed care and protection for 3 or more children under 13 years of age.

CHILD CARE, FAMILY – Licensed care and protection that is provided in a dwelling unit on a regular basis, for 3 to 12 children under 13 years of age who are not the children of the provider or who are not residing in the provider's home. If a provider is caring for children living in that provider's home and is caring for no more than 2 other children, then the use is customary to a dwelling unit and is not regulated herein.

ART GALLERY – A retail establishment primarily engaged in the sale of drawings, photography, paintings, sculpture and the like to customers for their own individual or household use.

GOVERNMENT FACILITY/USE - A governmental or public service use for the general benefit of the citizens funded in whole or in part by the state, federal government, Town of Bar Harbor or a quasi-public organization, including, by way of illustration and without limitation municipal buildings, schools, public parks and recreational facilities, and state and federal buildings visitor information offices.

MUNICIPAL FACILITIES-USE – Buildings or land which is owned by the Town of Bar Harbor and operated under its supervision.

MUSEUM – A nonprofit institution operated principally for the purpose of preserving and exhibiting objects of historical, cultural, scientific or artistic interest and which may also engage in retail sales of items related to its principal purpose. Restaurants as an accessory use are permitted only in the in the Downtown Business and Salisbury Cove Corridor districts.

PROFESSIONAL OFFICE BUILDING - A building in which there is located the office of a professional, such as an architect, accountant, dentist, ~~doctor of medicine~~, lawyer, and the like, or in which a business conducts its administrative, financial or clerical operations, but not including any manufacturing or sale of goods or merchandise.

MAP AMENDMENT

Assign the Village Residential District to the following Property Tax Map and Lot numbers pursuant the Proposed Zoning Changes map created on:

Map-Lot	Map-Lot	Map-Lot	Map-Lot
101-016-000	103-006-000	103-088-000	106-027-000
101-029-000	103-033-000	103-049-000	106-041-000
101-017-000	103-040-000	103-045-000	106-026-000
101-030-000	103-052-000	103-097-000	106-044-000
101-018-000	103-039-000	103-060-000	106-006-000
101-028-000	103-034-000	103-061-000	106-046-000
103-001-000	103-038-000	103-048-000	106-052-000
103-031-000	103-072-000	103-065-000	106-019-000
103-086-000	103-093-000	103-089-000	106-018-000
103-047-000	103-076-000	103-067-000	106-010-000
103-056-000	103-082-000	103-069-000	106-009-000
106-022-000	103-094-000	103-087-000	106-017-000
106-021-000	103-084-000	103-068-000	106-008-000
106-045-000	104-408-000	104-406-000	106-016-000
103-002-000	103-090-000	103-096-000	106-031-000
103-085-000	106-029-000	103-046-000	106-011-000
106-023-000	103-053-000	103-055-000	106-032-000
106-005-000	104-405-000	106-054-000	106-015-000
106-043-000	103-042-000	106-002-000	106-037-000
106-042-000	103-037-000	103-078-000	106-033-000

Map-Lot	Map-Lot	Map-Lot	Map-Lot
103-004-000	103-050-000	106-053-000	106-014-000
103-005-000	103-036-000	106-001-000	106-012-000
103-028-000	230-001-002	106-025-000	106-036-000
103-051-000	103-041-000	106-024-000	106-013-000
103-032-000	103-044-000	106-004-000	106-035-000
103-043-000	103-066-000	106-028-000	103-007-000
103-035-000	103-057-000	106-040-000	103-062-000
103-080-000	103-098-000	106-038-000	104-409-000
103-092-000	103-059-000	103-029-000	103-100-000
104-407-000	106-039-000	106-007-000	106-050-000
103-064-000	103-063-000	106-034-000	106-048-000
104-410-000	103-091-000	101-015-000	106-049-000
103-095-000	103-058-000	106-020-001	106-047-000
103-077-000	106-003-000	106-020-000	103-006-001

~~Editor's Note: This ordinance also provided that it shall apply retroactively to all proceedings, applications and/or petitions pending on or commenced after 9-6-2005, notwithstanding the provisions of 1 M.R.S.A. § 302.~~

Explanation: Adoption of this district would partially replace an area which is currently designated as Bar Harbor Residential.

Recommendations:

The five member Planning Board recommends adoption, by a vote of 4 to 0.

The 22 member Warrant Committee recommends adoption, by a vote of 19 to 0.

Article 10 – LAND USE ORDINANCE AMENDMENT - Shoreland Standards –

Shall an Ordinance dated February 2, 2010 and entitled “An amendment to update the standards for Shoreland Districts” be enacted?

*Full text of Ordinance Amendment and Table of Uses on file in the Town clerk's office.
Also, viewable on the Town's website: www.barharbormaine.gov – Departments
– Planning Department – Current Zoning Projects: LUO Proposed Amendments
for June Town Meeting -
<http://www.barharbormaine.gov/xhtml/124/Permalink/489/>*

Explanation: *This amendment would bring the Land Use Ordinance into complete compliance with State Department of Environmental Protection regulation and eliminate several internal inconsistencies which currently exist.*

Recommendations:

The five member Planning Board recommends adoption, by a vote of 4 to 0.

The 22 member Warrant Committee recommends adoption, by a vote of 19 to 0.

Article 11 - LAND USE ORDINANCE AMENDMENT – Historically and locally significant properties – Shall an Ordinance dated February 2, 2010 and entitled “An amendment to revise Appendix A and B – List of Historically Significant Properties” be enacted?

Appendix A and Appendix B: List of Historically Significant Properties

An amendment to revise Appendix A and Appendix B – List of Historically Significant Properties.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

**Appendix A
Historic Properties in Design Review Overlay District**

Building	Map/Block/Lot Number
Sherman's Bookstore - Main Street	2-5-8 <u>104-528-000</u>
Morrison Building - Main Street	2-5-11 <u>104-525-000</u>
Grant Building - Main Street	2-5-14 <u>104-519-000</u>
Bar Harbor Banking & Trust - Main Street	2-5-1 <u>104-531-000</u>
First National Bank - Main Street	2-4-13A <u>104-512-000</u>
Caleb's - 112 Main Street	2-4-16 <u>104-509-000</u>
Ward Building - Main Street	2-4-19 <u>104-507-000</u>
Domus Isle (formerly Willey's) - Main Street	2-4-20 <u>104-504-000</u>
Butterfields - Main Street	2-3-13 <u>104-497-000</u>
Old Town & Country Shop - Main Street	2-3-11 <u>104-494-000</u>
Window Panes - Main Street	2-3-10 <u>104-493-000</u>
Ivy Manor (Old Lynam Building) - Main Street	2-3-1 <u>104-492-000</u>
Rose Olstead Building - Main Street	2-2-44 <u>104-489-000</u>
Bar Harbor Seafood Building - Main Street	2-2-31 <u>104-487-000</u>
Edgar Morang Residence - Main Street	2-1-17 <u>108-005-000</u>
E.G. Jordan Building - Main Street	2-1-18 <u>108-003-000</u>
Bar Harbor Water Co. - Main Street	4-2-2 <u>108-068-000</u>
Bangor Hydro Building - Edgewood Street	4-2-6 <u>107-219-000</u>
McKay Cottages - Main Street	4-4-4 <u>104-481-000</u>
Old YMCA Building (Abbe Museum) - Mt. Desert Street	4-6-8 <u>104-450-000</u>
Old Comfort Station - Firefly Lane	3-2-16 <u>104-401-000</u>
Bar Harbor Fire Station - Firefly Lane	3-2-16 <u>104-401-000</u>
Old Police Station - Rodick Street Parking Lot	3-2-19 <u>104-392-000</u>
Bar Harbor Gift Shop - Main Street	3-2-3 <u>104-387-000</u>
Lyford Woodard Building - Main Street	3-2-4 <u>104-386-000</u>
Emery Block Building - Main Street	3-2-5A <u>104-383-000</u>
Block Building - corner of Main Street and Cottage Street	3-2-6B <u>104-375-000</u>
Galyn's - Main Street	3-3-15A <u>104-121-000</u>
Thankful Cottage - Billings Avenue (West Street) [Added 5-2-2005]	3-4-11 <u>104-097-000</u>

Building	Map/Block/Lot Number
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Manor House Inn - West Street	3-4-20 <u>104-070-000</u>
Old Bar Harbor Club - West Street	3-5-7 <u>104-009-000</u>
Criterion Theater - Cottage Street	3-3-23 <u>104-140-000</u>
Post Office - Cottage Street	3-4-25 <u>104-112-000</u>
Dr. Norton's Office - Cottage Street	3-4-30 <u>104-092-000</u>
Former Robert Hodgkins residence (Cottage on Cottage) – Cottage Street	3-4-29-1 <u>104-061-000</u>
Municipal Building - Cottage Street	3-7-23 <u>104-058-000</u>
Carrying Place (former Haraden residence) – Cottage Street	3-9-27 <u>104-157-000</u>
Coplon Associates (former Everett Liscomb residence) – Cottage Street	3-9-9 <u>104-181-000</u>
H.A. Brown Furniture - Cottage Street	3-10-43 <u>104-244-000</u>
American Legion - Cottage Street	3-10-14 <u>104-268-000</u>
Briarfield Inn (former Central House) - Cottage Street	3-12-34 <u>104-326-000</u>
Rosalie's - Cottage Street	3-12-10 <u>104-355-000</u>
Epicurean - Cottage Street	3-2-23B <u>104-373-000</u>
Brown's Studio - Cottage Street	3-2-7 <u>104-374-000</u>
White Columns Inn - Mt. Desert Street	3-10-61 <u>104-254-000</u>
Stonethrow - Mt. Desert Street	3-10-60 <u>104-255-000</u>
Mira Monte Inn - Mt. Desert Street	3-10-59 <u>104-238-000</u>
The Stratford House Inn - Mt. Desert Street	3-11-1 <u>104-317-00</u>
Thornhedge Inn - Mt. Desert Street	3-11-23 <u>104-297-000</u>
Holbrook House Inn - Mt Desert Street	6-1-6A <u>104-413-000</u>
Primrose - Mt. Desert Street	3-10-57 <u>104-237-000</u>
The Kedge - West Street	3-7-13 <u>104-041-000</u>
The Tides - West Street	3-6-4 <u>104-005-000</u>

St. Savior's Church (Mount Desert Street) [**Added 11-4-2003**]

~~3-12-41~~ 104-318-000

Bar Harbor Congregational Church [**Added 11-4-2003**]

~~3-1-2~~ 104-342-000

Holy Redeemer Roman Catholic Church [**Added 11-4-2003**]

~~4-9-1~~ 104-419-000

Jesup Memorial Library [**Added 11-4-2003**]

~~4-7-30~~ 104-433-000

Sea Fox

101-009-000

Acadia Cottage

101-032-000

Witch Cliff

101-035-000

Villa Mary

103-012-000

Lot

103-014-000

Bagatelle (home and carriage house only)

103-015-000

Fenwold

103-016-000

Greencourt

103-021-000

Anchor Hold

103-022-000

Revene Cove

103-023-000

The Breezes

104-002-000

Greenlawn

104-003-000

Saltair

104-004-000

The Sunset

104-006-000

Westbridge

104-001-000

The Crossways

104-037-000

Westfield

104-038-000

Maisonette

104-039-000

Chantier

104-040-000

Petunia Cottage

104-068-000

Foster Cottage

104-069-000

Sign

Map/Block/Lot Number

Criterion Theater Cottage Street (marquee only) [**Added 11-4-2003**]

~~3-3-23~~ 104-140-000

First National Bank Main Street [**Added 11-4-2003**]

~~2-4-13A~~ 104-516-000

Bar Harbor Banking and Trust [**Added 11-4-2003**]

~~2-5-1~~ 104-531-000

West End Drug (stained glass sign) [**Added 11-4-2003**]

~~3-2-4A~~ 104-385-000

~~3-2-5~~ 104-384-000

125 Attachment 5

Appendix B
Locally Significant Properties in
Design Review Overlay District

Map/Block/Lot Number	Address Common Name
2-5-12 <u>104-521-000</u>	66 Main Street Ben & Bill's Chocolate Emporium
3-2-1 <u>104-402-000</u>	119 Main Street Rupununi's (Old Mary Jane Building)
3-5-1 <u>102-004-000</u>	1 West Street Harbor Place
3-3-2 and 3-3-4 <u>104-131-000</u>	53 Main Street Bayside Landing/Testa's
3-8-15 <u>104-024-000</u>	123 Cottage Street Porcupine Grill
<u>103-051-000</u>	<u>15 Highbrook Road</u>

Explanation: Adoption of this amendment would bring Appendix A and Appendix B into conformance with the Town's current map and lot number system. It would also add several properties located in the West Street and Eden Street/Harbor Lane National Historic Districts to the list of historically significant properties.

Recommendations:

The five member Planning Board recommends adoption, by a vote of 4 to 0.

The 22 member Warrant Committee recommends adoption, by a vote of 19 to 0.

Article 12 - LAND USE ORDINANCE AMENDMENT – Loading Zone Standards –
Shall an Ordinance dated February 2, 2010 and entitled “An amendment to revise standards Loading Zone” be enacted?

Standards for Loading Zone

An amendment to revise standards for Loading Zone.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE V Site Plan Review

§125-67. General review standards.

F. Loading requirements. In connection with every building or group of buildings which is to be occupied by industrial, office, laboratory or commercial uses, or by uses involving distribution of material or merchandise by vehicles, there shall be provided and maintained off-street loading berths in accordance with the requirements set forth below.

(3) The following minimum off-street loading berths shall be provided and maintained in the case of new construction, alterations or changes of use which would increase the loading demand according to the standards set forth below, or any increase in the area used which increases such loading demand. In the event of such construction, alterations, change or increase, the entire premises or use, and not just that portion constructed, altered, changed or increased, shall become subject to the following requirements:

(c) Retail, commercial, planned commercial and industrial groups, wholesaling, manufacturing and industrial uses: one berth if between 5,000 and 29,999 ~~45,000~~ square feet of gross floor area; two berths if between 30,000 and 50,000; four berths if between 50,000 and 75,000; plus one additional berth for each additional 30,000 square feet of gross floor area.

Explanation: Adoption of this amendment would clarify an existing gap in the ordinance.

Recommendations:

The five member Planning Board recommends adoption, by a vote of 4 to 0.

The 22 member Warrant Committee recommends adoption, by a vote of 19 to 0.

Article 13 - LAND USE ORDINANCE AMENDMENT– Shoreland General Development III – Shall an Ordinance dated February 2, 2010 and entitled “An amendment to create a new district entitled Shoreland General Development III with accompanying dimensional controls, allowed uses and Design Review Board authority, and a map amendment” be enacted?

Shoreland General Development III Standards

An amendment to create a new district entitled Shoreland General Development III with accompanying dimensional controls, allowed uses and Design Review Board authority, and a map amendment.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

§125-49.1 Shoreland General Development III (Bar Harbor Corridor). [Amended 11-5-1996]

A. Purpose

The Shoreland General Development III district seeks to allow for corridor development that provides transient services and other commercial services along the town’s prominent entry corridor. Care in screening, landscaping, and building design should be taken to respect the National Scenic Byway (Eden Street) as well as a historic waterfront.

B. Dimensional Standards

- (1) Minimum lot size: 30,000 square feet with sewer; 60,000 square feet without sewer.
- (2) Minimum road frontage and lot width: 100 [feet] with sewers; 150 [feet] without sewers.
- (3) Minimum shore frontage: 150 [feet] for residential use or dwelling unit adjacent to tidal areas; 300 [feet] per governmental, institutional, commercial or industrial structure adjacent to nontidal area; 200 [feet] for each other use, dwelling unit or structure for all other uses or structures.
- (4) Minimum front setback: 100 [feet] from the center of Route 3, and 75 [feet] from the front lot line elsewhere.
- (5) Minimum side setback: 25 [feet].
- (6) Minimum rear setback: 25 [feet].
- (7) Maximum lot coverage: 25%.

- (8) Maximum height: 35 [feet].
- (9) Minimum area per family: 20,000 square feet on sewers; 40,000 SF without sewers.

C. Allowed Uses

- (1) Uses allowed by the issuance of a building permit: single and two-family dwellings; Municipal Buildings, Government Services; home occupation; public or private park; all vacation rentals; artist studio; gallery; museum; child care facilities
- (2) Uses allowed by site plan review: all Transient Accommodations; Ferry Terminals; Restaurants; Commercial fishing piers and boatyards; Marinas; other Piers, docks and use projecting in the water; multi-family dwelling I and II; nursing/convalescent home or congregate housing; wind turbines; professional office; transportation facility; services

D. Allowed Activities:

- (1) Activities allowed without a permit, provided it complies with all provisions of the Section 125: activities necessary for managing/protecting land; filling/earth moving activity less than 10 cubic yards; forest management activities except timber harvesting; non-intensive recreation uses not requiring structures; public utility installation.
- (2) Activities allowed by building permit and require approval of the Code Enforcement Officer: driveway construction; road construction (after subdivision approval is received); filling/earth moving activity 10 cubic yards or more; essential services.

E. Other requirements

- (1) All activities are subject to the regulations set forth in 125-68 Shoreland Standards.
- (2) All changes to facades and signs require Design Review Board approval.
- (3) Parking requirements shall follow the requirements found in Section 125-67.D

ARTICLE XII Construction and Definitions

§ 125-109 Definitions

ARTIST STUDIO – An art profession home occupation for gain and support which is conducted entirely within a residential dwelling unit or structure accessory to the dwelling unit. Retail sales of products made on the premises are allowed in residential

districts; accessory retail of products made on the premises and other products are allowed in commercial and corridor districts.

BED and BREAKFAST I – Overnight accommodations and a morning meal in an owner-occupied dwelling unit constructed before June 8, 2010, provided to transients for compensation. Breakfast is included in the room rate.

BED and BREAKFAST II – Overnight accommodations and a morning meal in a dwelling unit occupied by the owner/innkeeper or a designated employee constructed before June 8, 2010, provided to transients for compensation. Breakfast is included in the room rate.

BED and BREAKFAST III – Overnight accommodations and a morning meal in a dwelling unit occupied by the owner/innkeeper or a designated employee provided to transients for compensation. Breakfast is included in the room rate.

BED and BREAKFAST IV – Overnight accommodations, a morning meal, and additional meals in a dwelling unit occupied by the owner/innkeeper or a designated employee constructed before June 8, 2010, provided to transients for compensation. Breakfast is included in the room rate. The meals may be open to the public.

BED and BREAKFAST V – Overnight accommodations, a morning meal, and additional meals in a dwelling unit occupied by the owner/innkeeper or a designated employee provided to transients for compensation. Breakfast is included in the room rate. The meals may be open to the public.

CABINS - free-standing dwelling units or cottages on a parcel; said units are subject to seasonal closure

CHILD CARE CENTER - A building for providing care and protection for 3 or more children under 13 years of age.

CONFERENCE CENTER – a facility used for conferences and seminars, with accommodations for sleeping, food preparation and eating, recreation, entertainment, resource facilities, meeting rooms, fitness and health center, and retail stores and services primarily for conference center guests.

FAMILY CHILD CARE - Care and protection that is provided in a dwelling unit on a regular basis, for 3 to 12 children under 13 years of age who are not the children of the provider or who are not residing in the provider's dwelling. If a provider is caring for children living in that provider's home and is caring for no more than 2 other children, then the use is customary to a dwelling unit and is not regulated herein.

GALLERY – A retail establishment primarily engaged in the sale of drawings, photography, paintings, sculpture and the like to customers for their own individual or household use. Accessory uses may include restaurant.

~~GROCERY STORE – A small neighborhood establishment retailing food and related commodities, as distinguished from a supermarket.~~

HOME OCCUPATION -- A business, trade, arts, occupation or profession conducted for gain and support which is customarily carried on entirely within a residential dwelling unit or structure accessory to the dwelling unit which is clearly accessory and incidental to and compatible with the surrounding residential uses.

HOTEL- A facility offering transient lodging accommodations for transients and which may include additional accessory facilities and services available to the general public, as well as a conference center.

MEDICAL CLINIC -- An office building used by members of the medical professions for the diagnosis and outpatient treatment of human ailments; doctor's offices are included in this definition.

MOTEL – A facility providing sleeping accommodations for transients with additional accessory facilities and services available to transients at the motel only.

PROFESSIONAL OFFICE BUILDING -- A building in which there is located the office of a professional, such as an architect, accountant, dentist, ~~doctor of medicine~~, lawyer, and the like, or in which a business conducts its administrative, financial or clerical operations, but not including any manufacturing or sale of goods or merchandise.

SERVICES – Establishments primarily engaged in providing assistance, as opposed to products, to individuals, business, industry, government and other enterprises

TRANSIENT ACCOMMODATIONS – a collective term to describe Bed & Breakfast, Motels, Hotels, Conference Centers, and Cabins

~~A. TA 1 Bed and breakfast accommodations in the private, year-round residence of the host family who live on the premises (one to three rooms; maximum six guests). Breakfast is the only meal provided.~~

~~B. TA 2 A building or buildings where for compensation lodging is provided (four to 25 rooms). No meals are served.~~

~~C. TA 3 An existing building, constructed and completed prior to June 10, 1986, where for compensation lodging is provided (four to 10 rooms). TA 3 is permitted in districts where it is felt that lodging for transients is necessary to preserve or maintain many of Bar Harbor's residential structures: [Amended 11-5-1991; 11-2-2004]~~

~~(1) No building shall be expanded in floor area or volume by more than 10% over the lifetime of the building;~~

- (2) — ~~There shall not be constructed any exterior stairway or fire escape enclosed or otherwise above the ground floor visible from the street on which the building fronts; and~~
- (3) — ~~Breakfast is the only meal provided.~~
- D. — ~~TA 4 An existing building, constructed and completed prior to June 10, 1986, where for compensation lodging is provided (11 to 25 rooms). TA 4 is permitted in districts where it is felt that lodging for transients is necessary to preserve or maintain many of Bar Harbor's residential structures: [Amended 11-5-1991; 11-2-2004]~~
- (1) — ~~No building shall be expanded in floor area or volume by more than 10% over the lifetime of the building;~~
- (2) — ~~There shall not be constructed any exterior stairway or fire escape enclosed or otherwise above the ground floor visible from the street on which the building fronts; and~~
- (3) — ~~Breakfast is the only meal provided.~~
- E. — ~~TA 5 A building or buildings where for compensation lodging and one or more meals for guests only are provided (four to 25 rooms). [Amended 5-6-2002]~~
- F. — ~~TA 6 An existing building, constructed and completed prior to June 10, 1986, where for compensation lodging and meals for guests only are provided (four to 25 rooms). TA 6 is permitted in districts where it is felt that lodging for transients is necessary to preserve or maintain many of Bar Harbor's residential structures: [Amended 11-5-1991; 11-2-2004]~~
- (1) — ~~No building shall be expanded in floor area or volume by more than 10% over the lifetime of the building;~~
- (2) — ~~There shall not be constructed any exterior stairway or fire escape enclosed or otherwise above the ground floor visible from the street on which the building fronts.~~
- G. — ~~TA 7 A building or buildings where for compensation lodging and meals are provided (four to 25 rooms). Accessory uses subject to site plan review include restaurant, gift shop and the like.~~
- H. — ~~TA 8 A building or buildings where for compensation lodging and meals are provided (25 or more rooms). Accessory uses subject to site plan review include restaurant, cocktail lounge, gift shop, conference room, recreational facilities, such as swimming pool, game courts, and recreational rooms, and the like.~~

ARTICLE XIII, Design Review [Added 11-2-1999]

§125-112. Applicability of design review.

- A. Design Review Overlay Districts. [Amended 11-4-2003; 11-2-2004; 6-9-2009; 11-3-2009]

- (1) The provisions of this article shall apply only within the geographic limits of the following Design Review Overlay District, hereinafter called the "district."
- (2) Boundaries of the Design Review Overlay District. The district shall include the following neighborhood districts as shown on the Official Neighborhood Districts Map of Bar Harbor: the Downtown Business District; the Shoreland General Development I and III Districts; the Bar Harbor Historic District; Bar Harbor Corridor; the Bar Harbor Historic Corridor District (~~excluding those corridor districts on Route 3 that are within the area of the Town shown on Tax Map 11D~~); and the Town Hill Business District. ***

- C. Activities not subject to design review. The following activities are not subject to design review:

- (6) Municipal or government facilities; Ferry Terminals

MAP AMENDMENT

Measured from the normal high-water line 250 [feet] is the Shoreland General Development III district on the following properties:

Map 101 Lot 1

Map 101 Lot 2

Map 101 Lot 3

Map 101 Lot 4

Map 231 Lot 1

Map 231 Lot 2

Map 231 Lot 3

Map 231 Lot 4

Explanation: This amendment introduces a new shoreland general district for the area from College of the Atlantic to and including the property known as Sonogee Rehabilitation and Living Center.

Recommendations:

The five member Planning Board recommendation to adopt, failed by a tied vote of 2 to 2.

The 22 member Warrant Committee recommends adoption, by a vote of 14 to 5.

Article 14 – NORTHEAST CREEK – To see if the Town of Bar Harbor will adopt the following vote to assist with the financing of Northeast Creek, a project of the Bar Harbor Housing Authority:

1. That a sum not to exceed \$1,000,000 is hereby appropriated for the purpose of assisting the Bar Harbor Housing Authority with the costs of its Northeast Creek housing project, on terms deemed appropriate by the Council; and
2. That the Treasurer and Chair of the Town Council, acting pursuant to the provisions of 30-A M.R.S.A. Section 5772, are hereby authorized to issue general obligation securities of the Town of Bar Harbor (with or without call provisions and with or without premium, and including temporary notes in anticipation of the sale thereof) in an aggregate principal amount not to exceed One Million dollars (\$1,000,000.00); and
3. That the discretion to fix the date(s), maturity(ies), interest rate(s), denominations(s), place(s) of payment, form and other details of said securities, including execution and delivery of said securities on behalf of the Town of Bar Harbor, and to provide for the sale thereof, is hereby delegated to the Treasurer and Chair of the Town Council; and
4. That the Town raise and appropriate the additional sum of \$90,756 for the Municipal Budget for FY11 (7/1/10 to 6/30/11) for debt service for Northeast Creek.
5. That the \$1,000,000.00 in bonding authority granted by Article 5 of the Town Meeting held on June 5, 2007 is hereby repealed.

FINANCIAL STATEMENT

As of June 1, 2010

1. Total Town Indebtedness

A. Bonds outstanding and unpaid	\$ 9,263,740
B. Bonds authorized and unissued	\$ 5,140,947
C. Bonds to be issued if this article is approved:	\$ 1,000,000

2. Costs

At an estimated interest rate of 6.5% for a twenty (20) year maturity, the estimated costs for this bond issue will be:

Principal	\$ 1,000,000
Interest	\$ 815,128
Total Debt Service	<u>\$ 1,815,128</u>

3. Validity

The validity of the bond and of the voters' ratification of the bond may not be affected by any error in the above statements. If the actual amount of the total debt service for the bond issues varies from the estimate, the ratification by the voters is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.

/s/ _____

Stanley W. Harmon

Treasurer of the Town of Bar Harbor

Explanation:

If approved, this article will allow the Town Council to borrow up to \$1,000,000 to assist the Bar Harbor Housing Authority with the financing of Northeast Creek, which will help make homes affordable for 20 working families. At the current 6.5% interest rate, the Town's loan payment for each of the next 20 years would be \$90,756, an amount partially offset by taxes paid on the new homes.

Recommendations:

The seven member Town Council recommends rejection, by a vote of 4 to 3.

The 22 member Warrant Committee recommends rejection, by a vote of 14 to 5.

School Budget Validation Referendum Ballot**Pursuant to 20-A MRSA §§1486 AND 2307**

You must know what voters decided on June 1st to know what you are voting. If you are unable to attend the open town meeting, you may obtain the results by viewing the website www.barharbormaine.gov; or check the posting of the approved school funding at the polls. Note: School Validation absentee ballots will be rejected if voted and returned prior to the approved budget on June 1st.

Article 15 - Do you favor approving the Town of Bar Harbor school budget for the upcoming school year that was adopted at the latest Town meeting?

Explanation: Pursuant to 20-A MRSA §§1486 and 2307 a School Budget Validation Referendum Ballot is now required. Following the open town meeting vote on the approved school budget, voters are asked to ratify the budget by a secret ballot on election day.

Article 16 – Do you wish to continue the budget validation referendum process in the **Town of Bar Harbor** for an additional three years?

Explanation:

A “YES” vote will require the Town of Bar Harbor to continue to conduct a referendum to validate its **Town of Bar Harbor** annual school budget for the next three years.

A “NO” vote will discontinue the budget validation referendum for at least three years and provide instead that the **Town of Bar Harbor** annual school budget shall be finally adopted at a meeting of the voters of the Town of Bar Harbor.

Recommendations:

The school committee recommends a no vote on this article.

The seven member Town Council recommends rejection, by a vote of 7 to 0.

The 22 member Warrant Committee recommends the budget validation process not be continued, by a vote of 18 to 0.

The polls will be open from 8:00 a.m. until 8:00 p.m. on Tuesday, June 8, 2010 for election of Town officers and referendum articles. Absentee ballots will be processed the day before, Monday, June 7 from 10:00 a.m. until 4:00 p.m. or sooner, if completed; and on Election Day every hour on the hour starting at 9:00 a.m. until 8:00 p.m.

The Registrar of Voters of the Town of Bar Harbor hereby gives notice that she or her designee will be at the Municipal Offices on Monday through Friday from 8:30 a.m. to 5:00 p.m., except holidays, until Election Day for the registration of persons desiring to register for this election.

Given under our hands and seal at Bar Harbor this twentieth day of April 2010.

Municipal Officers of the Town of Bar Harbor

Sandy McFarland, Chair

Ruth A. Eveland, Chair

Paul A. Paradis, Secretary

Robert L. Jordan, Jr.

Peter St. Germain

Dr. Jane Disney

Greg Veilleux

Attest: A true copy _____
Patricia A. Gray, Town Clerk of Bar Harbor

CONSTABLE'S RETURN

By virtue of the within Warrant to me directed, I have warned and notified the inhabitants of the Town of Bar Harbor to assemble at the time and place and for the purposes therein named by posting an attested copy of the within Warrant on the Bulletin Board, Municipal Offices, being a conspicuous public place within said Town on the _____ day of _____ in the year of our Lord Two Thousand and Ten.

Attest: _____ Time: _____
Constable of the Town of Bar Harbor

A true copy, Attest: _____
Patricia A. Gray Town Clerk of Bar Harbor
